

CHAITMAN LLP
465 Park Avenue
New York, New York 10022
Phone & Fax: (888) 759-1114
Helen Davis Chaitman
Gregory M. Dexter
hchaitman@chaitmanllp.com
gdexter@chaitmanllp.com
Attorneys for Defendants-Appellants

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES INVESTOR PROTECTION
CORPORATION,**

Plaintiff-Applicant,

v.

**BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,**

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

**IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,**

Plaintiff,

v.

DEFENDANTS LISTED ON ECF No. 14283,

Defendants-Appellants.

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 08-1789 (SMB)

Adv. Pro. Nos. listed on ECF No.
14283.

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

Pursuant to the Order Appointing Arbitrator, ECF No. 14227, and by leave granted by the Bankruptcy Court on February 15, 2019, *Picard v. Wilenitz*, Adv. Pro. No. 10-04995, ECF No. 130, Defendants-Appellants represented by Chaitman LLP listed on ECF No. 14283 (“Defendants”) hereby state the issues to be presented on appeal to the United States Bankruptcy

Court for the Southern District of New York of Judge Maas' January 2, 2019 Order (the "January 2, 2019 Order"), ECF No. 18354.¹

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

1. Can the Discovery Arbitrator enter an order that vitiates an order previously entered by this Court to put all Trading Records in the E-Data Room 1?
2. Is the Trustee, with unlimited resources, permitted to take custody of millions of documents and refuse to produce documents this Court has ordered the Trustee to produce?
3. Is the Trustee permitted to refuse to share access to the BLMIS Database when it would impose virtually no burden on the Trustee to share access and when the Trustee has never advanced a reason why he is shielding Madoff/BLMIS documents?
4. Is it proper for the Discovery Arbitrator, in the face of the Trustee's violation of this Court's orders, to put the burden on the Defendants to "rummage" through the warehouse under the Trustee's exclusive control to locate the documents this Court ordered the Trustee to produce two years ago?

Dated: March 18, 2019
New York, New York

CHAITMAN LLP

By: /s/ Helen Davis Chaitman

Helen Davis Chaitman, Esq.
Gregory M. Dexter, Esq.
465 Park Ave.
New York, New York 10022
Telephone: (888) 759-1114
Facsimile: (888) 759-1114
hchaitman@chaitmanllp.com
gdexter@chaitmanllp.com
Attorneys for Appellants-Defendants

¹ [AA13-19].

CERTIFICATE OF SERVICE

I, Helen Davis Chaitman, hereby certify that I caused a true and correct copy of the foregoing documents(s) to be served upon the parties in this action who receive electronic service through CM/ECF. I certify under penalty of perjury that the foregoing is true and correct.

Dated: March 18, 2019

/s/ Helen Davis Chaitman